Shell Energy North America (US), L.P.
111 Washington Avenue
Suite 750
Albany, NY 12210
Tel +1 518-433-0949
www.shell.com/us/energy

October 1, 2008

VIA EMAIL

Massachusetts Department of Energy Resources
100 Cambridge Street
Suite 1020
Boston, Massachusetts 02114

Re: Comments On Renewable Portfolio Standard Import Feasibility Study

Dear Sir or Madam:

Attached please find the Comments of Shell Energy North America (US), L.P. for the Department of Energy Resources' ("DOER") Study on the feasibility of instituting a capacity requirement on electricity imported into the ISO-New England control area from renewable generators located in adjacent control areas and whether and how such imports should be netted against exports of electrical energy.

The summary information requested by the notice on the DOER's web site is as follows:

Name of submitter: Matthew Picardi
Organization: Shell Energy North America (US), L.P.
Summary of position:

Shell Energy respectfully submits that neither imposing capacity commitments on renewable energy suppliers nor netting imports of renewable energy with exports of energy from any source, whether within a company, among affiliates, or arising from transactions with third-persons, is or will ever be feasible or appropriate. Because Massachusetts' Renewable Portfolio Standard is an energy-based program, conditioning eligibility on participation in the ISO New England's capacity markets is unnecessary and potentially detrimental to the robustness of the program. Imposing broad netting requirements is unwarranted and could also be detrimental to the robustness of the program. Moreover, there is no justification to net imports and exports simply because the transactions are performed by affiliates or arise from a contract with an unrelated third-person. If the DOER nevertheless decides to proceed with either requirement, administrative and economic efficiencies dictate that it should do so in coordination with ISO New England.

Please contact the undersigned if you have any questions with respect to these comments.

Yours sincerely,

/s/

Matthew Picardi
Vice President
Shell Energy North America (US), L.P.

COMMENTS OF SHELL ENERGY NORTH AMERICA (US), L.P.
ON THE RENEWABLE PORTFOLIO STANDARD
IMPORT FEASIBILITY STUDY

In accordance with the notice published on the Department of Energy Resources' ("DOER") web site, Shell Energy North America (US), L.P. ("Shell Energy") submits these comments on the feasibility of implementing Sections 105(c) and (e) of Chapter 169 of the Acts of 2008, ("the Green Communities Act"). These provisions require participation in the ISO New England Inc.'s ("ISO-NE") capacity market as a condition for energy imports to be eligible to receive renewable energy credits ("RECs"), and energy exports to be offset against imports in applying RECs to qualifying renewable energy suppliers.

Shell Energy supports Massachusetts' and DOER's efforts to promote the expansion of renewable resources, alternative energy sources, and energy efficiency. In furtherance of these efforts, we look forward to working with DOER and other stakeholders in implementing and achieving the goals of Massachusetts to steadily increase the Commonwealth's utilization of renewable resources and help reduce its reliance on energy produced by burning fossil fuels. The foundation for these goals is set forth in DOER's regulations that contain minimum standards for the Massachusetts Renewable Portfolio Standard ("RPS"). These standards will require broad participation from renewable resources. Accordingly, it is imperative that they be implemented without barriers or disincentives to participation.

These comments will demonstrate that Sections 105(c) and (e) will both create needless obstacles to achieving Massachusetts' goals of broad participation in the RPS program. Accordingly, Shell Energy respectfully urges the DOER to determine that neither capacity commitments by renewable energy suppliers nor netting of imports and exports is feasible or required.

BACKGROUND

Shell Energy has been a strong supporter of, and active participant in, RPS programs and initiatives in the Commonwealth and across the country. We assist developers and producers of energy from renewable resources as well as consumers in managing their renewable energy portfolios. Specifically, we serve as a financial vehicle for the development of renewable energy projects by providing long-term contracts to purchase and market their output. We also help manage our customers' participation in independent system operator- administered markets and find markets for their renewable attributes, such as the market for RECs in Massachusetts. In particular, Shell Energy is importing wind resources from New York State into Massachusetts and anticipate a significant drop in the delivery of energy from such resources if Sections 105(c) and (e) are implemented. This will make it more difficult and expensive for the customers that we currently supply with energy and/or RECs, such as public and municipal electric utilities, large industrial corporations, and retail aggregators to meet their RPS requirements.

Royal Dutch Shell plc, Shell Energy's ultimate parent, is committed to the reduction of carbon emissions. It is active in combating climate change in several ways, including developing renewable resources. Shell has become one of the largest wind developers in the world, with interests in 11 projects totaling approximately 1,100 MW of capacity. These projects reduce CO_2 emissions by about one million tons, as compared to the generation of an equivalent amount of electricity from coal-fired generating facilities. Additional projects are under development.

Shell Energy has transactions related to renewable energy in several states and has been an active participant in the DOER's RPS program. The benefits that have been gained to air quality and the environment from such participation are not constrained by state borders. Shell Energy intends to continue its involvement as both a supplier and purchaser of renewable energy

and we hope to continue our significant level of participation utilizing external renewable resources. In order for us to do so, however, the program must be designed and implemented in an administratively and economically efficient manner; it cannot impose unreasonable and unnecessary barriers to participation.

Accordingly, Shell Energy offers the following comments on the questions posed by DOER to assist the agency in evaluating the feasibility of Sections 105(c) and (e), and in implementing the program in a manner that maximizes its success.

DISCUSSION

Question 1: How should "feasible" be defined and why?

The issue of feasibility of requiring renewable energy suppliers to participate in ISO-NE's capacity market raises different considerations than the issue of feasibility of netting imports and exports. Therefore, the two issues will be addressed separately.

There Should Be No Requirement To Participate In ISO-NE's Capacity Market

The RPS program is an energy-based program. Its goals include increasing diversity in the sources of the Commonwealth's electricity supply, lessening reliance on fossil fuels, and combating global warming. Importantly, it is not a "reliability" program in that it is not designed or intended to address short- or long-term electric system capacity needs. Therefore, the construct of the program should foster the participation of renewable energy suppliers, regardless of their location, and broaden the ability of retail electricity suppliers to obtain renewable energy to serve the needs of their customers. It should not impose requirements that are unnecessary and inconsistent with achieving the program's goals. Indeed, in a presentation to the New

England Energy Conference earlier this year, Gordon van Welie, the President and Chief Executive Officer of ISO-NE, explained that, based on the analysis performed by ISO-NE after the conclusion of the first forward capacity auction, one of the lessons learned is that imports of renewable resources from adjacent control areas are important to lowering New England's carbon emissions and dependency on fossil fuels.[1]

Section 105(c) sets forth three eligibility requirements for imports of qualifying renewable energy: (i) selling the renewable energy in ISO-NE's spot energy market or via a bilateral transaction with a purchaser located in the ISO-NE control area; (ii) complying with ISO-NE's rules for scheduling and delivering the renewable energy; and (iii) participating in ISO-NE's capacity market on an annual basis. The first two requirements are not a concern and warrant little discussion. It is reasonable and appropriate to require renewable energy suppliers to comply with the same rules and requirements applicable to all participants in ISO-NE's energy markets.

In contrast, requiring importers of renewable energy to participate in ISO-NE's capacity market poses very significant problems. These concerns are heightened for renewable energy produced by intermittent resources such as wind farms because of the uncertainty of their production capability. In assessing the feasibility of this requirement, it is important to place it in context with the operation of ISO-NE's forward capacity market, particularly with respect to imports generally.

---

[1] Gordon van Welie, "How Will the Region Address Environmental and Economic Goals?" presented to the 15th Annual New England Energy Conference, May 14, 2008, p. 4. Upon information and belief, Mr. van Welie shares the perspective presented in these comments that there should be no barriers or disincentives to attracting imports of renewable resources into New England.

All capacity imports, whether from renewable resources or otherwise, are treated the same under the ISO-NE tariff and rules.[2] The ISO first sets a maximum amount of Unforced Capacity that may be imported. The capacity associated with grandfathered contracts is then deducted, and all remaining capacity is allocated on a first-come, first-served basis.[3] Requests are evaluated one month prior to the obligation period and must be submitted for two consecutive months, and existing multi-month requests are given priority to new requests in terms of the allocations.

Because the amount of imports is limited and no distinction is made as to fuel source, renewable energy suppliers that are located outside New England may not be able to obtain sufficient capacity import rights under ISO-NE's rules. Without those capacity rights, they would be precluded from participating in the Commonwealth's energy-based RPS program and assisting in achieving its goals. In fact, such a requirement serves no purpose from a market standpoint because, under ISO-NE's market rules, these rights are not required for a supplier to be able to import renewable energy into Massachusetts.[4]

Moreover, arbitrarily precluding participation in the energy-based RPS program by imposing a capacity requirement will artificially hinder the Commonwealth's ability to achieve its stated renewable energy target levels. Under 225 CMR 14.07, the minimum percentage of

---

2 *See* ISO New England Transmission, Markets, & Services Tariff, Market Rule 1 – Section III.13 and Installed Capacity Manual M-20, dated June 6, 2008, Sections 1.5, 3.8 and Attachment G.

3 *See* ISO New England Installed Capacity Manual M-20, dated June 6, 2008, Sections 1.5 and 3.8.7.6.

4 Indeed, if anything, this proposed rule appears to arbitrarily favor renewable resources located within New England but outside Massachusetts' borders over other renewable resources that are also external to Massachusetts. Using an example to illustrate this point, both renewable resources located in Maine and renewable resources located in either New York or in the PJM Interconnection would be required to sell energy in Massachusetts under the proposed eligibility requirements. However, unlike the resource located in either New York or the PJM Interconnection, the resources located in Maine would simply need to participate in the ISO-NE capacity auctions as an internal resource; it would not be required to secure capacity import rights, a much more limited product. Thus, by placing capacity requirements on these energy transactions, DOER would unnecessarily and unfairly be limiting the pool of resources available to it from outside its borders.

energy sales from renewable resources will increase by 1% per year, starting in 2009. If there is an insufficient amount of renewable resources available to retail electricity suppliers, the Commonwealth will not be able to achieve its goal each year. While §14.08(3) provides for an Alternative Compliance Payment that will be used to promote and foster the development of renewable resources, such development takes time. Accordingly, the Commonwealth should not impose restrictions on imports that are available to retail electricity suppliers, now, and which could contribute to achieving the annual RPS objectives.

If an intermittent renewable resource could secure capacity import rights in New England, there is then a question as to the amount of energy and associated RECs that the supplier would be permitted to provide. For example, a wind farm with the capability of producing 30 MW may only be allowed to provide 10 MW of unforced capacity in the ISO-NE capacity markets. In a given hour, the wind farm could schedule and actually imports 30 MW. Would the supplier be allowed to obtain credit for the full 30 MW in that hour, or would it be capped at 10 MW for that hour (*i.e.*, the amount of capacity it was permitted to sell in New England under ISO-NE's capacity rules)? Shell Energy submits that there should be no limitation for purposes of the RPS program given that the key characteristic or element that RECs represent is actual energy production. Accordingly, if a capacity requirement is imposed, understanding the levels that a renewable energy supplier will be permitted to import must be addressed as it is not practical or appropriate to impose the requirement from the outset.

Lastly, it must be noted that the feasibility of securing capacity import rights could also become a moving target under ISO-NE's rules. ISO-NE may adjust its import level, especially as new transmission facilities are installed. However, DOER's rules do not account for potential ISO-NE rule changes that can affect feasibility in that environment.

In sum, because capacity import rights are extremely limited and cannot be obtained with any degree of certainty, for purposes of Section 105(c), feasibility should be defined as the ability of a renewable energy supplier to economically import energy to the ISO-NE control area on a reasonably predictable basis.[5]

The Import Of Intermittent Renewable Resources Should Not Be Netted Against Any Exports

Section 105(e) provides for three types of netting of imports and exports: (i) within an individual company; (ii) between affiliates; and (iii) arising from contracts with unrelated third-persons. Shell Energy understands that this provision was added because the General Court was concerned that some suppliers may try to "game" the system to increase their profits at the expense of the citizens of the Commonwealth. That is, they would attempt to import energy produced from renewable resources and simultaneously export energy from fossil-fueled generating facilities to serve load in the adjoining region that otherwise would have been served by the renewable resource. While Shell Energy appreciates this concern, we respectfully submit that it is unfounded as applied to, and is particularly ill-suited for, intermittent renewable resources. Imports from intermittent resources should not be netted against any exports, and as discussed below, such a requirement is generally not feasible.

The decision of an importer of intermittent renewable resources to participate in the RPS program is based on the economics of doing so, inclusive of all transaction costs and risks of complying with all program requirements, as well as the costs and requirements of the control area from which the energy is exported. Moreover, due to the variability of production from intermittent resources, a supplier would have little ability to make advance plans to offset those

[5] We would note that, at least for renewable resources located in the New York control area, if they are required to become New England capacity resources, they could not meet this standard.

imports with exports from fossil-fueled facilities located within the ISO-NE control area. Indeed, and as noted above, an intermittent resource is required to comply with ISO-NE's scheduling and dispatch rules. Thus, if a supplier schedules countervailing transactions on a day ahead basis but cannot then produce the amount of imports it has scheduled, it must secure replacement energy or suffer the financial penalties prescribed in the ISO-NE tariff.

Turning to the three types of netting set forth in the statute, netting between affiliates is problematic for large and diverse corporations. Subsidiaries of such corporations typically operate pursuant to their own business plans and under the direction of their own management teams. Affiliates, which might be joint ventures controlled by other companies, may not coordinate activities on a daily, weekly, or other routine basis. Therefore, a decision made by one affiliate to import renewable energy and participate in the Commonwealth's RPS program could quite possibly not be driven or influenced by a decision by another affiliate to export energy from ISO-NE to another control area. Indeed, one affiliate may not even be aware of the other transaction. Thus, a generally applicable netting rule would improperly and unjustly create a presumption that affiliates would work together to "game the system," thereby effectively punishing market participants who have not in any way attempted to undermine the RPS program. Absent evidence that abuse is actually occurring, netting affiliate imports and exports serves no legitimate purpose and is inappropriate.

As to transactions with unrelated third-persons, Shell Energy's business model demonstrates why netting is infeasible. Shell Energy is an energy marketing and trading, and asset and risk management company. Its core business functions include buying and selling the output of facilities owned by others, aggregating the needs of its customers in order to secure more favorably priced supplies of electricity, offering hedging and other products to customers to

reduce price volatility, and providing management and operational services to owners of electric generating facilities. With respect to our asset management services, Shell Energy may be able to unilaterally determine when and how to schedule and dispatch a generating facility. In other instances, however, the contract with the asset owner may require us to operate a facility within specified parameters.

For example, Shell Energy may enter into a contract with the owner of a wind farm in New York to manage its operations and separately arrange for the sale of the output from a Massachusetts combined cycle unit to a load serving entity in Pennsylvania. In effectuating the former transaction, Shell Energy may determine that price signals for renewable energy in New England dictate in favor of entering into a contract with a retail electricity supplier in Massachusetts for the output from the wind farm. At the same time, Shell Energy could match the output and price of the combined cycle unit and the need and price point of the load serving entity and broker a transaction between the two entities. Under this example, Section 105(e) would require the imports from New York to be netted against the exports to Pennsylvania because both involve Shell Energy. However, the example also demonstrates that the two transactions are wholly independent of each other, each is justified based on its economics, and they are not intended to secure any undue advantage or otherwise be detrimental to the citizens of Massachusetts. Accordingly, Shell Energy's involvement in each, in and of itself, provides no legitimate reason to offset the import and export.

Similarly, with respect to imports and exports that are entirely internal to Shell Energy, our activities are undertaken to serve the needs of our customers and to produce value for them. Therefore, all transactions must be economically justified. Imposing netting requirements,

therefore, would primarily reduce the benefits obtained by our customers and instead increase their costs of either producing or purchasing electricity.

In sum, for purposes of Section 105(e), netting import and export transactions should be considered feasible only if there is no legitimate economic reason for the countervailing transactions. Where one of the transactions involves intermittent resources that cannot be predictably scheduled, or the transactions involve separate entities, whether affiliated or related through third-person contracts, netting should not be applied.

Question 2: Are implementation of subsections (c) and (e) of Section 105 of the Act feasible now? If not now, when and why?

For the reasons set forth in response to Question 1, Shell Energy respectfully submits that implementation of Sections 105(c) and (e) is not feasible or necessary, now or at any point in the future. Because the RPS program is an energy program and has no capacity component, there is no reason to require a renewable energy supplier to participate in the ISO-NE capacity market as a condition to participating in the RPS program.

Similarly, for the reasons set forth above, it is not feasible to net imports and exports between affiliates or between a company and an unrelated third-party. It is also not feasible to net imports and exports within a single company when the imports consistent of intermittent resources because of the uncertainty associated with the output of the intermittent resource.

In fact, imposition of both the eligibility and netting requirement could make the RPS program infeasible for entities importing renewable energy into the ISO-NE control area. Both requirements would layer additional risks and costs on renewable energy suppliers that could easily exceed the benefits from their participation in the program. Artificially constraining program participation would raise the costs to retail electricity suppliers and Massachusetts

consumers. That is, as the requirement to purchase renewable energy increases but the supply remains the same or diminishes, the cost of that energy will correspondingly increase. These increases will then be passed along to consumers in the commodity portions of their electric bills. While, as noted above, the Alternative Compliance Payment should assist in the development of new renewable resources over time, there is no certainty, especially given current economic conditions, as to when those new resources may be financed, sited, constructed, and commence commercial operation.

These concerns are not temporal in nature. Therefore, for the same reasons that Sections 105(c) and (e) are infeasible and should not be imposed today, there is no time in the future when these two requirements would be become feasible or should be imposed.

Question 3: If feasible, what mechanisms either are in place, or can and must be established to monitor and verify compliance of each subsection? What would be the cost (in terms of finance and/or time) for such monitoring and verification of each?

For the reasons discussed above, Shell Energy respectfully recommends that DOER determine that implementation of Sections 105(c) and (e) is not feasible. If DOER nevertheless decides to move forward with either provision, Shell Energy suggests that the most practical and sensible alternative is for DOER to coordinate with ISO-NE regarding monitoring and verifying that renewable energy suppliers are properly participating in its capacity market, and tracking transactions involving such suppliers (and their affiliates and counter-parties). While ISO-NE does not compile the particular reports DOER would need, it may be able to develop most of the information needed for those reports from the data it already collects.

To do so, ISO-NE would need to develop new software to produce this information. It may also need to develop new rules and procedures.[6] Moreover, because information related to the nature of any market participant's participation in ISO-NE's energy and capacity markets, as well as in the markets in other control areas, is commercially sensitive and could cause significant competitive harm if released publicly, strict confidentiality and data access rules and procedures will also be needed.[7] Indeed, these rules and procedures will be needed regardless of whether ISO-NE, DOER, or another entity is responsible for performing the monitoring and verification functions. Shell Energy strongly recommends that in any event, the number of individuals who have access to market participants' detailed transaction information be limited to protect against the potential for inadvertent disclosure. Additionally, because of freedom of information law concerns (M.G.L. c. 4 s. 7), DOER should also consider whether it needs to possess the information. That is, it may be preferable for ISO-NE to maintain detailed transaction information, with DOER arranging with ISO-NE (to the extent it has not already done so) for access to that information as needed. This process would obviate freedom of information requests to DOER and disputes over DOER's obligation to produce such information.

Shell Energy cannot predict the potential costs to DOER, ISO-NE, and market participants associated with the implementation and operation of these two provisions. However, we believe that the financial and resource costs will be substantial. All entities involved would

---

[6] For example, as discussed above, if any capacity requirement is imposed, all renewable energy suppliers participating in the RPS program should be required to demonstrate that they have sold capacity to Massachusetts. Doing so would place all renewable resources, whether located within or outside of the ISO-NE control area on a level playing field. Otherwise, a renewable resource located within New England but outside Massachusetts would be put in an artificially-superior position over a renewable resource located outside New England. However, ISO-NE does not currently have a locational capacity market for the Commonwealth of Massachusetts. Thus, new software would need to be developed to perform this function.

[7] We note that ISO-NE already has confidentiality rules in place.

need to develop and implement new procedures to administer or comply with, as appropriate, these requirements. Doing so will likely require new computer software and perhaps new hardware, additional personnel, training, and commitments of other resources.

In the event DOER decides not to rely on ISO-NE, it would be required to essentially duplicate a number of functions already performed by that entity. It would need to develop similar computer systems and programs as ISO-NE to monitor, track, and process all transactions occurring in the energy and capacity markets. It would need personnel to gather, review, and analyze the information submitted. It would need to develop rules and procedures for reporting information, as well as for resolving disputes that will inevitably arise (especially with respect to affiliate and third-person transactions). Funding for all of these activities, as well as for support services (*e.g.*, information technology, human resources, accounting) must also be secured. While the costs of all of these activities are unknown, they are likely to be significant. The time needed to create this duplicate organization would be substantial as well.

Additionally, the experience in New York is instructive in terms of the potential complications and delays associated with an administrative agency taking a primary role in the administration of the program, and particularly in the activities addressed in Sections 105(c) and (e). In 1998, the New York State Public Service Commission ("NYPSC") instituted an environmental disclosure program to assist customers in making informed choices about the sources of their electricity and promote generation from renewable resources. To implement this program, the NYPSC receives raw transaction data from the New York Independent System Operator and processes that data internally to develop environmental disclosure labels for each

load serving entity in the State (*i.e.*, the fuel resource mix of that entity).[8] To foster and enhance its RPS program, the NYPSC subsequently decided to expand the environmental disclosure program to accommodate and provide information on the tracking of RECs.[9] Due to the volume of transactions and number of market participants involved, the NYPSC is many months behind in recording and reporting information regarding each load serving entity's resource mix.[10] That experience demonstrates the complexity of analyzing the transaction data and the difficulty of producing the reports needed by providers and purchasers of renewable resources on a timely basis. In Massachusetts, extended delays in producing compliance reports and awarding RECs could diminish the robustness of the RPS program and hinder the ability of retail electricity suppliers to certify their compliance with 225 CMR 14.07.

The foregoing discussion demonstrates that a duplicate organization is not a practical, efficient (administratively or economically), or reasonable option. Moreover, creating an entirely new system would be inconsistent with, and disruptive to achieving, the goals of the RPS program. That is, until the new organization is operational, the RPS program, as revised by the Green Communities Act, could not move forward.

Accordingly, if either Section 105(c) or (e) is determined to be feasible and is implemented, the focus should be on coordination between DOER and ISO-NE. To perform the tasks described above, ISO-NE will need to modify its software and potentially may need to revise its rules and procedures. Accomplishing this will require it (and DOER) to work through

---

[8] NYPSC Staff must determine total generation and purchases for each reporting period, then match sales and purchases to differentiate blended transactions by resource type. The reporting period is set at six months but the NYPSC is considering changing it to an annual period due to the amount of work involved in analyzing the data developing the disclosure reports.

[9] *See* NYPSC Case 03-E-0188, Retail Renewable Portfolio Standard, Order Recognizing Environmental Attributes and Allowing Participation of Projects with Physical Bilateral Contracts (issued June 28, 2006).

[10] The NYPSC receives raw transaction data from the New York Independent System Operator and then matches transactions and renewable attributes between buyers and sellers.

the stakeholder committee process and obtain the concurrence of the Participants' Committee. Depending on the cost of the software changes, ISO-NE may also need budgetary approval for those expenditures. While we cannot estimate the time it will take to obtain stakeholder input and concurrence, we anticipate that it would be an extended process.

The costs to market participants could also be substantial. As discussed above, market participants with multiple subsidiaries and affiliates could be required to revise or enhance their internal reporting and tracking requirements to monitor the ongoing activities of each affiliated entity to determine whether the netting provisions would be implicated, even if the subsidiaries and affiliates do not operate in a coordinated fashion. They may also need to add personnel and other resources to perform these tasks.

While we have not undertaken a specific assessment of the potential costs, it is likely that the administrative costs of complying with the requirements of Section 105(e), as well as the potential expense of complying with ISO-NE's capacity market rules and obligations in accordance with Section 105(c), would dramatically outweigh the potential benefits to be gained from participating in the RPS program. The level of these costs is not unique to Shell Energy and would likely be similar for other large market participants. Therefore, it is possible, if not probable, that few companies will decide to make the investment and participate in the RPS program.

Inasmuch as such an outcome is not consistent with the purpose and intent of the Green Communities Act or the RPS program, these cost considerations further demonstrate why implementation of neither Section 105(c) nor Section 105(e) is feasible.

Question 4: With regard to subsection (e), over what time spans and how frequently could and should import and export transactions be "netted?"

As noted in the response to Question 2, there should not be any netting of imports and exports between affiliates or third-parties, or within the same company if the imported energy is produced by intermittent renewable resources. If DOER nevertheless decides that netting is feasible and appropriate, Shell Energy offers the following comments on potential netting rules.

For both administrative and economic efficiency purposes, any rules implementing Section 105(e) should be designed to correlate to the maximum extent possible with ISO-NE's existing market structure. Creating inconsistent procedures, rules, and reporting requirements could create additional barriers to success of the RPS program. Accordingly, the netting rules should match, or track, the manner in which market participants schedule transactions in ISO-NE's energy market.

As to frequency, given our understanding of the purpose of Section 105(e), the netting rules should be designed to eliminate the economic benefit of scheduling countervailing import and export transactions that serve no legitimate purpose. Indeed, care is needed in developing netting rules that prevent improper conduct but do not penalize suppliers for taking reasonable and economically or operationally justifiable actions that are based on the differing price signals provided by the internal and external markets or the operating characteristics of their generation assets.

Whether on a day ahead or real time basis, sellers and purchasers of energy schedule their sales and purchases on an hourly basis. Accordingly, the netting should be performed on the same hourly basis. For example, if a supplier imports 100 MWhs of electricity from a wind farm in New York into Massachusetts each hour during a six hour period on a weekday afternoon, and exports 50 MWhs of electricity from a gas-fired facility each hour on the same day for the entire

day (*i.e.*, 24 hours), the netting should result in 300 MWhs of imports (600 MWhs (6 x 100 MWhs) of imports less 300 MWhs (6 x 50 MWhs) of exports). Under this example, there would be no justification to include the exports for the remaining 18 hours of the day as they could not possibly be considered to have occurred to provide any type of financial benefit under the RPS program.

As to the netting period, ISO-NE operates weekly and monthly billing cycles. Pertinent to this matter, the weekly cycle includes charges and payments for energy sold and purchased on a day ahead and real time basis. For the reasons set forth above, the period over which netting is settled should occur on the same basis as energy transactions are settled. That is, the total hourly net energy imports and exports that occurred simultaneously should be summed over a weekly period for purposes of determining the RECs to be applied. For example, if the sum of the net hourly data of imports less exports that occurred simultaneously indicates that a supplier imported a net 1,500 MWhs of energy over a seven-day period, it would receive RECs equivalent to that amount for that week.

Moreover, if netting rules are adopted, they must incorporate a materiality threshold, especially with respect to transactions that are scheduled in different markets. The theory that all parties are seeking to game the market does not match actual practice or the legitimate business transactions that parties enter into every day. That is, transactions of all types, including those of imports from renewable resources, involve assessments by all parties involved of the associated economics and risks. For example, if a retail electricity supplier in Massachusetts and a renewable energy supplier in New York consider entering into a transaction for the output from a New York wind farm, the parties would need to evaluate the most appropriate and economical means of structuring the transaction. If the output is to be sold in the day-ahead market, the

parties must consider the transmission charges and production risks associated with meeting schedules that have been accepted by the New York Independent System Operator and ISO-NE. If the output is to be sold in the real time market, there are separate considerations and risks such as having to accept a lower priority for the transaction.

Given these varying risks, any netting requirement should be limited to circumstances where there is a high correlation over a sustained period of time between the volume of New England exports and renewable energy imports both in terms of time and volume. If a market participant imports renewable energy on a fluctuating basis over the course of a week, and exports a consistent amount of energy over the same time period, but there is no correlation or relationship in the time frames and volumes of the imports and exports, the market participant should be considered to be engaging in legitimate business transactions. Therefore, it should not be subject to any netting rules.

Another concern with respect to the feasibility of netting is the ultimate impact of the rule. If an entity scheduling a renewable energy import foregoes an export opportunity for fear of being netted, another market participant will still engage in the export transaction if it is economically justified. If the price signals of the adjoining market justify the transaction, there is no benefit to the markets or the RPS program by excluding an entity simply because it is importing renewable energy. Accordingly, any netting rules should also consider the economics of the transaction activity. That is, netting should be limited to circumstances in which it appears that the export would not have been economic on its own merits and other evidence of gaming exists, such as a high correlation historically of simultaneous imports and exports.

CONCLUSION

Through the RPS program, the Commonwealth of Massachusetts seeks to encourage renewable resources to produce energy to meet its citizens' needs. Shell Energy supports this goal. We therefore respectfully urge DOER to carefully consider the potential costs and benefits of the requirements in Sections 105(c) and (e) and determine whether they will serve to improve or hinder the success of the RPS program since they will make it virtually impossible to economically import renewable energy from adjacent regions into Massachusetts. For the reasons set forth in these comments, Shell Energy contends that the requirements are unnecessary and likely detrimental to the robustness and success of the RPS program. Accordingly, neither set of requirements is feasible or should be implemented.

Shell Energy thanks the DOER for the opportunity to provide the foregoing comments on this important matter. We would welcome the opportunity to explore these issues and further discuss our concerns with the agency, and we look forward to working with the agency to achieve the laudable goals of the RPS program.

Respectfully submitted,

/s/
Matthew Picardi
Vice President
Shell Energy North America (US), L.P.

Dated: October 1, 2008